

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ALFRED T. THOMAS,
Plaintiff,

v.

AIDA CORREA,
Defendant.

No. C 09-02764 WHA

**ORDER DENYING
RECONSIDERATION AND
ORDERING PLAINTIFF TO
STOP FILING USING THIS
CASE NUMBER**

Plaintiff Randy L. Thomas, acting *pro se*, filed two documents in this district on behalf of himself and his minor son, Alfred T. Thomas, including a “petition & motion of respondent No. 2 for removal to U.S. District Court” and a “Petition for Writ of Habeas Corpus.” The documents challenged an order issued by Moore County Superior Court in North Carolina in a dispute between plaintiff and defendant Aida Correa regarding the custody of Alfred Thomas. The Clerk inadvertently docketed both filings under the above-captioned case number instead of in an already-existing case in this district regarding the same dispute that was assigned to Magistrate Judge Chen. *See* C. 09-1487(EMC). On July 7, 2009, an order interpreted plaintiff’s filings in the above-captioned case number as attempts at amendment in the action before Magistrate Judge Chen. The Clerk was ordered to close the above-captioned case number and refile plaintiff’s submissions in Case No. 09-1487(EMC). Magistrate Judge Chen considered the merits of plaintiff’s submissions and dismissed them with prejudice on July 10, 2009.

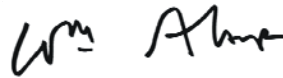
Plaintiff subsequently filed a “motion for leave for ECF” and a “motion for emergency relief — temporary custody” using the above-captioned case number, notwithstanding the fact that it was closed. These appeared to be attempts to relitigate the same issues that had already

1 been dismissed with prejudice by Judge Chen. Because the above-captioned case number was
2 closed and had only been opened in the first place due to error, an October 25 order directed the
3 Clerk to refile these new documents in the matter before Magistrate Judge Chen.

4 Now plaintiff has filed yet another submission using the above-captioned case number
5 entitled "Notice of Appeal." It appears to be a request directed to the undersigned for
6 reconsideration of the orders to close this matter and refile plaintiff's four earlier submissions in
7 the matter before Magistrate Judge Chen. Reconsideration is **DENIED**. Plaintiff's motions have
8 already been dismissed on the merits with prejudice by Magistrate Judge Chen. Plaintiff cannot
9 relitigate them now merely because initially they were inadvertently docketed in the above-
10 captioned case number. The above-captioned case number is closed and plaintiff is **ORDERED**
11 to stop filing submissions using it.

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13 **IT IS SO ORDERED.**

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15 Dated: December 29, 2009.



16 WILLIAM ALSUP
17 UNITED STATES DISTRICT JUDGE
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